

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2806 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
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A'BAD MUNI. TRANSPORT SERVICE

Versus

KALIPRASAD D. PATHAK

Appearance:

MR BP TANNA for Petitioner
MR JIVANLAL G SHAH for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 12/01/2001

ORAL JUDGEMENT

In this petition under Article 227 of the Constitution of India, the petitioner has questioned the legality and validity of the impugned award dated 10.2.87 passed by

the Special Labour Court, Ahmedabad, in Reference (LC-IDAT) No.910 of 1984, by which the petitioner was directed to reinstate the respondent quashing the order of removal from service, passed by the petitioner on 4.12.82, with a further direction of stoppage of two increments with permanent effect and without backwages.

The impugned award is challenged under Article 227 of the Constitution of India, wherein, the parameters of jurisdictional zone are very much circumscribed. The Labour Court in a reference has, elaborately, considered and evaluated the evidence and reached to the conclusion that this is not a case wherein dismissal is justified. The delinquency alleged against the petitioner, who, was working as a conductor since more than 10 years at the time of dismissal order was on the ground that on 13.3.82, at about 4.30 p.m. during the course of his duty as conductor in the AMTS bus, he was found to have not accounted for an amount of Rs.2.80 and Rs.3.05 respectively. It was, therefore, the case of the department that in doing so, he has committed negligence in his duties. Only upon the aforesaid delinquency, the dismissal order followed.

After considering the entire factual situation and the relevant proposition of law, the Labour Court passed the impugned award. After having heard the learned advocate appearing for the petitioner and considering the impugned award and the doctrine of proportionality of punishment in a departmental or domestic inquiry, it cannot be contended that the impugned order is in any way, unjust, unreasonable or illegal requiring interference by this Court in exercise of power under Article 226 of the Constitution of India, which are, undoubtedly, prerogative, discretionary and equitable. Therefore, the petition deserves to be rejected confirming the impugned award. Accordingly, the petition is rejected. Rule discharged.

(J.N.Bhatt, J.)
(vjin)